

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

CARL G. SIMPSON AND BONNIE REED  
SIMPSON, CO-ADMINISTRATORS  
OF THE ESTATE OF CARL D. SIMPSON,

**COPY**

Plaintiffs,

vs.

Case No. C-1-00-0014

INTERMET CORPORATION, ET AL.,

Defendants.

DEPOSITION OF GERALD WILBURN

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The deposition of Gerald Wilburn was taken on November 8, 2001, at the approximate hour of 10:10 a.m., at 215 South Fourth Street, Ironton, Ohio.

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1 Q. Had pressure?  
 2 A. Whether they were wrong or right -- I mean, they  
 3 had to be wrong because, you know, you've got a one-way  
 4 valve. If you can probe it and it still runs, something is  
 5 wrong.  
 6 Q. Did you ever talk with or report that to any  
 7 supervisor above you or anyone else in the plant about that  
 8 being a problem?  
 9 A. Yes.  
 10 Q. Who did you talk to about that or report that to?  
 11 A. Lee Cherry. That was that way when I went there.  
 12 Q. Okay. When you first realized that, you saw that  
 13 that was a safety problem?  
 14 A. Yes.  
 15 Q. What was the response you got from Mr. Cherry?  
 16 A. I was in maintenance at the time. We've changed  
 17 every valve on those machines, trying to solve that problem  
 18 and never solved it.  
 19 Q. Did anyone ever bring in an engineer from the  
 20 company to look at trying to solve that problem?  
 21 A. Yes, a Sutter engineer came in. I don't know his  
 22 name. I don't know if he was a Sutter or a valve -- we  
 23 worked on those valves and it never solved it.  
 24 Q. Once the working on the valves didn't solve it,

1 what else, if anything, when you was in maintenance, did  
 2 you do to try to make the Sutter machine safer?  
 3 A. Nothing.  
 4 Q. Were you aware of any attempts to put light  
 5 curtains on the machines for safety purposes?  
 6 A. I wasn't aware of them. I know they were taken  
 7 off. It had them on it, but they were disconnected.  
 8 Q. Did you see them on there before they were  
 9 disconnected, or is it something you were told?  
 10 A. I saw them on there.  
 11 Q. Did you ever see them in operation?  
 12 A. No.  
 13 Q. Were you aware that they attempted to try to make  
 14 those work either while you were there or before you came?  
 15 A. No.  
 16 Q. You just know that the light curtains were on  
 17 even though they weren't used, and then they were later  
 18 taken off?  
 19 A. Yes.  
 20 Q. Did anyone tell you why they were taken off or  
 21 why they weren't being used?  
 22 A. Yes.  
 23 Q. What were you told?  
 24 A. When you're standing here on this table and those

1 light curtains are right here in the front of that, you've  
 2 got a very tight workspace there. When your lift table  
 3 would go in and pick that up and you'd reach out to flip  
 4 that mold, your machine was already going to cycle again.  
 5 Well, every time your elbow would reach to flip that mold,  
 6 you'd break that light curtain. The machine would shut  
 7 down.  
 8 Q. Did you ever see that happen, or was you told  
 9 that was the problem?  
 10 A. I was told that was the reason. I mean, you  
 11 know, it was real tight there. You could go over and see  
 12 where you'd break the light curtains.  
 13 Q. Are you aware of any other safety other than the  
 14 bars that were put on -- well, let me talk about the bars.  
 15 The bars were put on the machine to hold the gashead up and  
 16 keep it from dropping, correct?  
 17 A. Correct.  
 18 Q. They would not keep the cope from coming up?  
 19 A. No.  
 20 Q. Are you aware of any other safety devices  
 21 installed on the Sutter while you were there in any  
 22 position other than the bars to keep the gashead from  
 23 dropping or the light curtain that was on the machine and  
 24 removed?

1 A. No.  
 2 Q. No gates were ever installed on the machine while  
 3 you were there or attempted to be installed on the machine  
 4 while you were there, were they?  
 5 A. No.  
 6 Q. Other than Lee Cherry, did you have any  
 7 discussions with any other management people about the  
 8 problems with the machine being --  
 9 A. Yes.  
 10 Q. You could reenergize it or it would work even  
 11 though it was locked out?  
 12 A. Yes.  
 13 Q. Who else?  
 14 A. Danny Mullins.  
 15 Q. What was his position?  
 16 A. Toward the end, he was the superintendent of  
 17 maintenance. He was just actually a supervisor that was a  
 18 good hydraulic man.  
 19 Q. Anyone else other than him?  
 20 A. Les Crumb.  
 21 Q. What was his position?  
 22 A. He was a superintendent at one time. Then he  
 23 went to a regular foreman. Everybody in maintenance, as  
 24 far as supervisors go, we've talked about that in the

1 need to have them there with it.

2 Q. It would be hard to see -- if the operator went  
3 around to push the manual override button, he would have a  
4 hard time seeing where the helper was at?

5 A. Yes.

6 Q. Even if the helper was in the machine removing a  
7 sticker, he would have a hard time knowing that?

8 A. Yes, especially if he was on the backside of the  
9 machine. You couldn't see him.

10 Q. The backside being where the manual override  
11 button is?

12 A. Yes, in the back.

13 Q. Was there ever any discussion about moving that  
14 manual override button around to the operator's side so you  
15 could see your helper when you was energizing that?

16 A. Not that I'm aware of.

17 Q. No safety person ever made a recommendation of  
18 that to help improve safety?

19 A. No.

20 Q. Was there any operational reason that that manual  
21 override button had to be on the opposite side?

22 A. No.

23 Q. It could have been moved over where the operator  
24 could still see the helper when he energized that?

1 A. Yes.

2 Q. Did you become aware of any injuries on the  
3 Sutter machine because of the pinch points or near injuries  
4 while you were employed there?

5 A. Yes.

6 Q. Tell us about the injuries or near injuries that  
7 were caused by -- because of the pinch points on the Sutter  
8 machine.

9 A. When you're cleaning those stickers out, you have  
10 to split that. I've had my hands in there and people hit  
11 the valve before. And if it wasn't for the hammer that  
12 I've had in there, I would have lost my fingers several  
13 times.

14 Q. So the hammer was thick enough that it held them  
15 apart enough to keep from crushing your hand?

16 A. Yes. That's happened many times in there.

17 Q. If another part of your body had been in there  
18 that was bigger than the hammer, then you would have been  
19 smashed?

20 A. Yes.

21 Q. So those are what we would call near injuries?

22 A. Yes.

23 Q. Were you aware of the injury to Grady Runyon,  
24 whether you seen it or not?

1 A. I knew about it. You know, I heard that he got  
2 his fingers caught.

3 Q. Were you aware of any other injuries on -- let me  
4 ask you this. Were you aware of the Ainsworth/Noble  
5 incident? Had you ever heard of that where there was  
6 almost an injury?

7 A. No, I haven't heard of that.

8 Q. Did you ever receive any complaints from  
9 employees about one of the employees energizing the machine  
10 before they were out of the machine or while their hand was  
11 in the machine? Other than your own instances, did you  
12 receive complaints from other employees about that  
13 happening at times?

14 A. No, not that I'm aware of.

15 Q. Did you become aware of it happening even though  
16 it wasn't a complaint, these near injuries like you almost  
17 had, from other employees?

18 A. Yes.

19 Q. Did you ever report any of that to your  
20 supervisor?

21 A. Yes.

22 Q. Was there anything done?

23 A. No.

24 Q. No investigation?

1 A. No.

2 Q. No attempts made to make the machine safer?

3 A. No.

4 Q. Did you ever work in the core room or around the  
5 core machines?

6 A. I think I worked down there twice, two shifts  
7 down there.

8 Q. You're familiar, then, at least generally, with  
9 the core machines and how they work?

10 A. Yes.

11 Q. Would you say they have similar pinch points as  
12 the Sutter but just not as big of an opening or as big of a  
13 machine?

14 A. Yes.

15 Q. Are you aware of there being injuries in the core  
16 room on the core machines from the similar pinch points?

17 A. I had heard somebody got smashed. I can't  
18 remember if it was their hand or arm or something that got  
19 caught. Now, whether it was true, I don't know. I mean, I  
20 heard that they had. We never had a meeting on it or  
21 nothing, if they did.

22 Q. You were not there when Carl Simpson was injured?

23 A. No.

24 Q. You were already gone?

1 Maybe they didn't use that. What were you told by  
 2 supervisors on keeping the machines going?  
 3 A. Basically, what you said, patch it and keep going  
 4 until we can -- until we can work on it, until Christmas  
 5 shutdown or Thanksgiving or something.

6 Q. At Christmas shutdown or Thanksgiving, what type  
 7 of maintenance would you do on the machines? Were you  
 8 allowed to replace as many parts with newer parts as  
 9 needed?

10 A. Whatever we could get in, we would replace. If  
 11 we couldn't get it in, the old one was installed. And when  
 12 the new would come, we'd change it out.

13 Q. At any time, say, in '99, was there ever any  
 14 problems being allowed to order parts or getting new parts  
 15 in?

16 A. Not that I'm aware of it.

17 Q. Were you ever aware of any cutbacks on the  
 18 maintenance or the repair of machines in '99?

19 A. Not that I'm aware of.

20 Q. Were you aware of any problems along the front of  
 21 the machine - when I say "the front," I'm talking about  
 22 where the operator and helper were - regarding footing or  
 23 there being a hole where they could get their foot caught?

24 A. Yes.

1 Q. Tell us about that.  
 2 A. Right in front of the drag, where the drag is  
 3 back, when your strip table would go in, that cylinder down  
 4 there had guards on it. Right in front of that, you could  
 5 step and your leg would fall down in front of the machine.  
 6 They had photo eyes down there. That would have to come  
 7 back and meet the photo eye before the machine would  
 8 actually go to its next cycle. So, yeah, you could get  
 9 your leg down in that, easily.

10 Q. If your leg went down in that opening, would you,  
 11 in effect, fall or stumble -- or could you fall or stumble?

12 A. Yeah.

13 Q. Could you fall into the Sutter machine at that  
 14 point, in against it, at least?

15 A. Actually, if you fell in that hole, your leg --  
 16 if your leg would go in that hole, that machine, when it  
 17 came back, would pinch you, bad.

18 Q. Pinch you?

19 A. Yeah, if not crush you.

20 Q. While you were there, was there ever anything  
 21 done to correct that problem with that hole or cover that  
 22 to keep employees out of it?

23 A. No.

24 Q. Are you aware of any employees stumbling or

1 falling or getting their foot, at least in that hole,  
 2 partially, causing them problems?

3 A. Yes.

4 Q. No one was seriously hurt because of that, that  
 5 you're aware of?

6 A. No.

7 MR. LAMBERT: I don't think I have any  
 8 other questions at this time, Mr. Wilburn. The other  
 9 attorneys may have some questions. And then I may have a  
 10 few follow-ups at that point.

#### EXAMINATION

##### BY MS. PRYOR:

13 Q. Mr. Wilburn, my name is Patty Pryor. I represent  
 14 Internet in this action. I'm going to ask you a couple of  
 15 follow-up questions. Some might retouch on things that  
 16 have already been asked, but either I need clarification or  
 17 I didn't jot it down quick enough, or whatever.

18 Let me first ask you, were you union at Internet?

19 A. No.

20 Q. You were one step above union, first line  
 21 supervisor?

22 A. Yes.

23 Q. How were the union employees at Internet?

24 A. As far as...

1 Q. Was the union strong? Was it a strong union,  
 2 would you say?

3 A. Yes.

4 Q. We've had some testimony from other people, some  
 5 union employees and some supervisors, talk about the union  
 6 employees. They were union and they -- you know, they'd  
 7 work a little slower. They'd take their breaks. They  
 8 weren't going to be rushed because they had a good union  
 9 contract behind them. Would that be a fair statement?

10 A. Somewhat, yes.

11 Q. You said you were a supervisor. Did you have the  
 12 power to hire employees?

13 A. No.

14 Q. Could you fire employees?

15 A. No.

16 Q. Could you discipline them?

17 A. Yes.

18 Q. What disciplinary action could you take by  
 19 yourself?

20 A. We just had to write them up as far as if they  
 21 were doing something wrong. Extended breaks, we'd write  
 22 down taking extended breaks and turn it in down front to  
 23 our main guy.

24 Q. Who was the main guy that you turned it in to?

1 A. I wish I knew that guy's name.  
 2 Q. It was the same guy that came with Scott Bleeks?  
 3 A. Yes.  
 4 Q. Was he in human resources or was he a -- do you  
 5 know what his title would have been?  
 6 A. Bleeks was the president, or whatever -- manager,  
 7 the plant manager. He was the vice -- whatever -- his  
 8 helper.  
 9 Q. Second in command?  
 10 A. Yeah.  
 11 Q. Now, you say you could write them up. Would that  
 12 cause them any -- I mean, would that -- would they be  
 13 suspended? Would they get pay docked? What happened if  
 14 you wrote someone up, if anything?  
 15 A. A smack on the hand.  
 16 Q. Were they talked to?  
 17 A. Somewhat, I mean, depending on their situation  
 18 and what they actually done. If they were taking extended  
 19 breaks, no. They would just tell them to get back on time.  
 20 Q. Who would tell them to get back on time?  
 21 A. Us, the supervisors, or people down front.  
 22 Q. I mean, would you be the one that would tell  
 23 them, that would smack them on the hand, or would you be  
 24 telling someone else?

1 Q. It wouldn't have been anyone that worked at --  
 2 A. No.  
 3 Q. -- Ironton?  
 4 A. No. These were people from out of town.  
 5 Q. Scott Bleeks wouldn't be considered corporate?  
 6 A. No.  
 7 Q. I think you also testified that corporate were  
 8 white hats.  
 9 A. Yes.  
 10 Q. Would anyone else be a white hat? Would Scott  
 11 Bleeks be a white hat?  
 12 A. Yes. Everybody that was a boss, we considered a  
 13 white hat. I mean, you had your corporate guys and your  
 14 managers and superintendents and all that.  
 15 Q. Were you a white hat?  
 16 A. Yes.  
 17 Q. Did employees lock out when white hats were  
 18 around?  
 19 A. Not all the time.  
 20 Q. But when corporate was around, you did?  
 21 A. Yes.  
 22 Q. You testified that after about 10 to 11 months as  
 23 a maintenance supervisor, you became a line supervisor.  
 24 A. Yes.

1 A. Yeah. I've went and ran them out of the  
 2 cafeteria before and tell them it was time to get back to  
 3 work and stuff like that.  
 4 Q. But then you would write them up and send that on  
 5 to somebody else who was higher up?  
 6 A. Most of the time, we didn't even write them up.  
 7 We were all friends, and we just didn't do it.  
 8 Q. Could you suspend somebody?  
 9 A. No.  
 10 Q. Could somebody else suspend them? I mean, could  
 11 you recommend suspension?  
 12 A. I could recommend it.  
 13 Q. Did that mean it would be followed?  
 14 A. No.  
 15 Q. If you recommended an action, it didn't  
 16 necessarily happen at all?  
 17 A. No.  
 18 Q. Were you told by any supervisor at Ironton not to  
 19 lock out a machine?  
 20 A. No.  
 21 Q. You testified about corporate, when corporate  
 22 came in. Who is corporate?  
 23 A. I guess the people that were over other plants.  
 24 I mean, your main guy that's over Internet.

1 Q. You oversaw both the pouring ramp and the Sutter  
 2 machines?  
 3 A. Yes.  
 4 Q. What do you do as a supervisor? Do you just help  
 5 people out? Do you answer their immediate questions? What  
 6 is your exact duties?  
 7 A. As a supervisor, we were to oversee the pouring  
 8 ramp, Sutter machines, or whatever position you were over.  
 9 You'd get them gloves, or if they needed anything, we'd go  
 10 get it for them. Any problems that would come up, we'd  
 11 take care of it.  
 12 Q. What kind of problems might come up that you'd  
 13 take care of?  
 14 A. The machines breaking down, mainly. The guys  
 15 that done their job, they did good at it. But if a machine  
 16 would break down, we'd radio for help. If we had any major  
 17 problems, we'd get the right people in there to take care  
 18 of the problem.  
 19 Q. Did you ever run a Sutter machine yourself?  
 20 A. Yes.  
 21 Q. That was as you were a line supervisor that you  
 22 ran it?  
 23 A. Yes.  
 24 Q. Would you climb into a machine and clean Sutter

1 A. Towards you.  
 2 Q. -- it was a smaller hole --  
 3 A. Correct.  
 4 Q. -- and maybe you could get your foot caught and  
 5 stumble, but it's unlikely you're going to fall anywhere?  
 6 A. Right.  
 7 Q. You said the area manager was over you. Who was  
 8 the area manager. Was that Scott Miller?  
 9 A. Yes.  
 10 Q. Then, after he went away, you said Roger Ramey  
 11 kind of --  
 12 A. Yes and no. He attended all the morning  
 13 meetings, took all the information down. He would come  
 14 back and he'd help us on the pouring ramp or whatever we  
 15 needed help on. I mean, he was the one that answered to  
 16 Scott Bleeks for the I-beam line at that time.  
 17 Q. Do you know what his job title was at the time?  
 18 A. Superintendent/foreman, I guess.  
 19 Q. Is there a difference between a superintendent  
 20 and an area manager?  
 21 A. Not in my book, there's not.  
 22 Q. Were you a superintendent or were you just a  
 23 supervisor?  
 24 A. I was just a supervisor.

1 Q. So superintendent would be above you. An area  
 2 manager would be above you?  
 3 A. Yes.  
 4 Q. They are roughly equivalent, in your mind?  
 5 A. Yes.  
 6 Q. You testified about when you were laid off. You  
 7 had given a statement on what happened in the control room,  
 8 and then you were laid off two days later.  
 9 A. Yes.  
 10 Q. What happened in the control room? Maybe I  
 11 missed it.  
 12 A. I never said what actually happened in the  
 13 control room. The guy's name -- I can't remember the  
 14 supervisor's name. He was a rough guy. I mean, he was  
 15 kind of an abusive guy, flat out. My brother-in-law had  
 16 walked in the control room. There was two or three guys in  
 17 there. He had walked in. And when he walked in, he  
 18 grabbed a hold of him and threw him up against the wall.  
 19 Q. Your brother-in-law grabbed a hold of --  
 20 A. No. The supervisor grabbed a hold of him and  
 21 threw him up against the chalkboard there. When I wrote my  
 22 statement on what had happened and what I had saw in the  
 23 control room, that's when I lost my job.  
 24 Q. Were you present in the control room?

1 A. I was standing outside the window.  
 2 Q. The control room has windows all around?  
 3 A. On two sides of it.  
 4 Q. You said that as a line supervisor, you would  
 5 play safety tapes for employees once a month.  
 6 A. Yes.  
 7 Q. Did you testify that some of those were lockout  
 8 tapes?  
 9 A. Yes.  
 10 Q. Did any employees ever ask you questions about  
 11 locking out?  
 12 A. Yes. They wanted to know where their locks were  
 13 and different ways to do that. Each one of them had their  
 14 -- like, they had three locks that they were issued.  
 15 Q. So the employees under you, they knew how to do  
 16 it, how to lock out the Sutter machine?  
 17 A. Yes.  
 18 Q. I'm assuming they were told by you or they  
 19 learned on the job from someone else?  
 20 A. Yeah.  
 21 Q. You never had an employee say I don't know how to  
 22 lock out a machine?  
 23 A. I had some, but they were the people that were  
 24 just brought into the plant.

1 Q. And you would tell them how to lock it out?  
 2 A. We'd show them or the people that were working  
 3 with them would show them.  
 4 Q. Would you tell them when they were initially  
 5 brought that you're supposed to lock out?  
 6 A. I didn't do that part of that. That was through  
 7 Bill Purdue and the people that did the orientations.  
 8 Q. Do you know if they told them that they should?  
 9 A. I'm not aware if they did or didn't.  
 10 Q. Okay. You testified that Bill Purdue brought up,  
 11 at one time, that you guys needed to enforce the lockout  
 12 program, make sure employees were locking out.  
 13 A. Yes.  
 14 Q. Then you testified that when Scott Bleeks came  
 15 in, people -- was it Scott Bleeks who said you're taking  
 16 too much time, or was it the other guy whose name that you  
 17 don't remember?  
 18 A. That other guy.  
 19 Q. What exactly did he tell you?  
 20 A. He just would say that we were losing too much  
 21 production time because it's taking too long to clean out  
 22 these stickers in there.  
 23 Q. Did he say it was taking too much time because  
 24 you're locking out, or did he just say it was taking too

1 much time?  
 2 A. He asked if we had to lock all of that out on  
 3 that machine.  
 4 Q. What did you say?  
 5 A. Yes.  
 6 Q. Did he say, no, you don't?  
 7 A. He just said "There's got to be a quicker way to  
 8 do it. You don't have to do all that to clean a sticker  
 9 out of the machine."  
 10 Q. Did he ever tell you to do it a quicker way?  
 11 A. No.  
 12 Q. So he was just kind of questioning whether there  
 13 was a quicker way to do it?  
 14 A. Correct.  
 15 Q. He said this to you, personally? This was a  
 16 conversation you and he had?  
 17 A. Yes. There were employees around, too.  
 18 Q. Do you remember who else might have been around  
 19 at the time?  
 20 A. No.  
 21 Q. Was he complaining that the employees were just  
 22 kind of doing the job slowly?  
 23 A. On the Sutter machines, if they were running  
 24 right, you couldn't do them slowly because they were a

1 timed cycle. In the mornings, the maintenance supervisor  
 2 would go around and check everybody's time. That's what  
 3 that machine cycled at. If you set it on 60 seconds, if  
 4 you set it on 48, or whatever you wanted to set that  
 5 machine on, that's how quick that machine would cycle. So  
 6 as long as that machine was running and didn't have any  
 7 sticker or you didn't run into any problems, that machine  
 8 would run, and that's what we kept them set at.  
 9 Q. Did the second in command guy complain, though,  
 10 that when a sticker actually occurred, the employees were  
 11 – they were going about cleaning it out slowly?  
 12 A. He just said it was taking too long, losing too  
 13 much downtime over it.  
 14 Q. Did you ever lock out the machine?  
 15 A. Yes.  
 16 Q. Would you generally lock it out, or would you  
 17 just –  
 18 A. Not every time, no.  
 19 Q. Did you, more often than not, lock it out?  
 20 A. Probably 50/50.  
 21 Q. What determined whether you would lock it out or  
 22 not?  
 23 A. It depends on how big of a hurry we was in and  
 24 who all was around. If we were down on numbers, then, most

1 of the time, I wouldn't lock it out. I just wouldn't lock  
 2 it out, try to hurry up and get it back up and running.  
 3 Q. Were the union employees concerned about the  
 4 numbers?  
 5 A. Yes and no. I mean, they wanted to get the  
 6 correct amount of parts out so we'd still have a job, but  
 7 as far as their safety issue, I don't think that they were  
 8 too concerned about it. I mean, if they wanted to clean –  
 9 if they were cleaning it out, most of the time, 50/50 of  
 10 them would do it the correct way.  
 11 Q. Did you ever hear anyone tell an employee, don't  
 12 lock that machine out?  
 13 A. No.  
 14 Q. You testified about light curtains that you had  
 15 seen on the machine.  
 16 A. Yes.  
 17 Q. Do you know when they were put on?  
 18 A. Yes.  
 19 Q. You just saw them on the machine, you didn't --  
 20 A. I saw them. When I came into the maintenance  
 21 supervisor position there, they had never worked the whole  
 22 time that I was there.  
 23 Q. You testified that it was a dangerous task to  
 24 remove stickers. Why was it dangerous?

1 A. Because you're in between a lot of tonnage of  
 2 steel there. Anytime you get in between – I mean, the  
 3 drag would come up or whatever – drawing back up in  
 4 between two pieces of steel is dangerous.  
 5 Q. Now, you testified about guarding you had at  
 6 Toyota.  
 7 A. Yes.  
 8 Q. Was there any way guarding could protect you when  
 9 you had to climb into the machine?  
 10 A. As far as cleaning out a sticker, guarding  
 11 couldn't have done a thing for you.  
 12 Q. What about light curtains?  
 13 A. Light curtains, no.  
 14 Q. Again, you have to climb in the machine. It's  
 15 not something --  
 16 A. Right.  
 17 Q. You also testified that certain employees  
 18 complained about it being dangerous, working on the  
 19 Sutters. Who were those employees?  
 20 A. I've been through a lot of them there because  
 21 everybody has jumped around from job to job. I couldn't  
 22 tell you. I've forgotten half of them.  
 23 Q. Was Jamie Brammer a good employee?  
 24 A. Yes.

1 Q. Was Carl Simpson?  
 2 A. Yes.  
 3 Q. They knew their job, knew how to run a Sutter?  
 4 A. Yes.  
 5 Q. Cleaned out stickers hundreds of times, probably?  
 6 A. Yes, thousands.  
 7 Q. Never had an injury with either one of them  
 8 before?  
 9 A. Not that I'm aware of, no.  
 10 Q. Now, you testified that you had put your hands in  
 11 the Sutter before and someone had gone around back and  
 12 pressed the button. You said the hammer kept your hand  
 13 from getting squashed?  
 14 A. Yes, in between the cope and the drag. If you  
 15 take and bounce this up and down, your strip pins inside of  
 16 that would sometimes break that sand loose. You'd have  
 17 your hand back in up there trying to help get it and  
 18 knocking it out. If you lay the strip table up into the  
 19 cope, those strip pins would come up. Sometimes, you had a  
 20 tight area in there and you'd have your hand back in there  
 21 with a chisel and hammer, and somebody would hit that  
 22 button. If that hammer wasn't laying there, it would smash  
 23 you.  
 24 Q. The machine was shut down when you had your hand

1 in?  
 2 A. Yes.  
 3 Q. Was it locked out?  
 4 A. The valves were shut off. Whether the locks were  
 5 put on there, I don't know. But I've seen it done before  
 6 with the locks on it.  
 7 Q. You have seen it done before?  
 8 A. Yes.  
 9 Q. Why did that person press the valve? Do you  
 10 know?  
 11 A. I have no idea, unless they thought I was done or  
 12 going around there to get to it and thought I was done or  
 13 something. I couldn't tell you why the valve was pressed.  
 14 Q. And the hammer prevented it from squashing your  
 15 hand?  
 16 A. Yes.  
 17 Q. The machine is not strong enough that it would  
 18 break the hammer itself?  
 19 A. Not solid steel.  
 20 Q. Oh, it's solid steel.  
 21 A. A solid steel, four-pound sledge hammer. I mean,  
 22 you've got -- I think that was 3,000 pounds of pressure,  
 23 something like that. But a solid steel hammer, you  
 24 won't --

1 Q. So we're not talking about the hammer I have in  
 2 my kitchen drawer?  
 3 A. I doubt it. It's a little bit heavier.  
 4 Q. You testified that you had seen your supervisors  
 5 above you around a machine that wasn't locked out when  
 6 people were cleaning it out.  
 7 A. Yes.  
 8 Q. Who were those supervisors?  
 9 A. Scott Miller, Pat -- I can't remember Pat's last  
 10 name, Roger Ramey.  
 11 Q. How do you know that they saw the machine was not  
 12 locked out?  
 13 A. We sat there and talked about it. I mean, not  
 14 talked about the machine being locked out, but sat there  
 15 and watched them clean it, I mean, right there where it was  
 16 supposed to be locked and there were no locks on it.  
 17 Q. Okay. Do you know for a fact they actually  
 18 looked up and saw that there were no locks on it?  
 19 A. Yeah, I know for a fact. Every supervisor knew  
 20 it, that the machines weren't locked out.  
 21 Q. You testified that you reported to the supervisor  
 22 about near misses of the machine. Did you report the fact  
 23 that you'd almost gotten your hand smashed?  
 24 A. No. It got around. I mean, people started

1 talking about it but, I mean, I didn't report it to  
 2 anybody.  
 3 Q. Do you know for a fact that another supervisor  
 4 knew about it?  
 5 A. Yeah. Roger Ramey knew about it.  
 6 Q. Other than Roger Ramey, do you know of anyone  
 7 else that knew about it?  
 8 A. Not that I'm aware of.  
 9 Q. How do you know that Roger Ramey knew about it.  
 10 A. Because I told him. Me and Roger is big buddies.  
 11 I don't even think -- I think that was before Scott Miller  
 12 even left. That was when I'd went there.  
 13 Q. How many times did you almost get your hand  
 14 smashed?  
 15 A. Just that once.  
 16 Q. Just that one time?  
 17 A. Yeah.  
 18 Q. You testified, I think, that you were aware of  
 19 other near misses. What other near misses were you aware  
 20 of?  
 21 A. The same thing. People have had their fingers  
 22 before. Their shirt sleeves get caught in it.  
 23 Q. Was this during normal cycle, or was it while  
 24 they were cleaning it out?

1 A. Cleaning it out, mostly.

2 Q. They were still cleaning it out and someone went  
3 around and pushed the button, or they had gotten out and  
4 someone went around and pushed the button?

5 A. You get out. Back there on the table, you would  
6 stand back there and watch and see if the pins are going up  
7 and down and if you'd have to have somebody over there  
8 probing the button to try to get all the stickers out and  
9 have a shirt sleeve or something too close because you'd  
10 have to get down real close to it to look.

11 Q. So it wasn't that they were in cleaning it out,  
12 they were out pressing the button and they were just close  
13 to the machine.

14 A. Yeah, real close. I mean, you had to get down  
15 where you could get the light to it.

16 Q. Is that what you were doing when you cut your  
17 hand?

18 A. No.

19 Q. You were still cleaning?

20 A. Yeah.

21 Q. Are you aware of anyone else that was still  
22 cleaning and almost got part of their body --

23 A. Not that I'm aware of.

24 Q. You don't know why that person went around and

1 pressed that button?

2 A. No.

3 Q. The machine was not locked out?

4 A. No. I've probably locked that machine out three  
5 or four times the whole two years, or whatever, that I was  
6 there.

7 Q. You testified that even if the machine was locked  
8 out, you could go press that button.

9 A. Yeah.

10 Q. How do you know that?

11 A. I've done it.

12 Q. You've locked out the machine and gone --

13 A. You don't have to lock out that machine. You  
14 turn the valves off and pull the control panel, or  
15 whatever, and the machine is dead until you push that  
16 button. That machine wouldn't move. I mean, whether you  
17 had a lock on it or not, if you turn the valve off and you  
18 can still push the buttons, the lock going through that  
19 hole isn't going to do you no good. It's just that the  
20 valve is off.

21 Q. So when you say employees did not lock out, did  
22 they turn the valves off?

23 A. Yes.

24 Q. So they would turn the valves off, they just

1 might not put a lock on it.

2 A. Just might not put their lock on it, or their  
3 tag. Yeah, I mean --

4 Q. They would definitely turn off the --

5 A. Turn all the valves off, yeah.

6 Q. They just didn't actually put their lock inside  
7 the --

8 A. Correct.

9 Q. That was always done?

10 A. Yeah, that was one of the things, 95 percent of  
11 the time, that was done. Sometimes, you'd crack the valve  
12 a little bit and probe it to get it to move slowly to try  
13 to get the stickers out of it, but --

14 Q. But you would always --

15 A. Yeah, the valves were always shut off.

16 Q. You said that you've seen it or you've done it  
17 yourself where you've gone around -- you've had the valves  
18 shut off, maybe not locked out, but shut off, pressed that  
19 button and it still --

20 A. Yes.

21 Q. It would just move whatever part you're moving?

22 I mean, it won't recycle, it will just -- if you press the  
23 gashead valve, the gashead will move?

24 A. Right.

1 Q. You talked about this with Lee Cherry?

2 A. All the maintenance supervisors knew it.

3 Everybody in that plant knew it because they'd do it. I  
4 mean, everybody in the plant has done it. Everybody that  
5 worked on that Sutter machine has moved the cope or the  
6 drag, whatever, with a valve shut off, working on them.

7 Q. Why would you do that?

8 A. Just to have -- you're cleaning out the stickers  
9 and just probe it to move it, to raise it -- to split the  
10 cope and the drag.

11 Q. That would be with all the valves shut off?

12 A. Yeah.

13 Q. You testified that you tried to find a way that  
14 that wouldn't happen, tried to change --

15 A. We worked on A-1, I think, is the valve they  
16 worked on, trying to figure out the problem.

17 Q. Did the A-1, A-2, B-1, and B-2 have the same  
18 problem?

19 A. Yes.

20 Q. You weren't able to figure out a way to --

21 A. That guy couldn't, and I'm not much on valves. I  
22 mean, everything else, I can help out on, but I'm not that  
23 good of a valve guy.

24 Q. Do you know why it would --

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1 Q. Have you ever been in the military?

2 A. No.

3 Q. You indicated in your testimony -- I've got this  
4 written down in quotes, "Knocking out a sticker, guarding  
5 could not have done a thing." Did I hear you correct?

6 A. Correct.

7 Q. Is that because you have to get into the machine  
8 to fix a sticker?

9 A. Yes.

10 Q. So guarding cannot prevent someone from getting  
11 in a machine that's trying to get in the machine, correct?

12 A. Yes.

13 Q. Guarding would be there to be used for someone  
14 that may accidentally place themselves in a pinch point; is  
15 that correct?

16 A. Yes.

17 Q. Do you know of any items that were on this  
18 particular machine after you got to Intermet that were  
19 retrofit or that were put on after the machine may have  
20 been originally manufactured?21 A. Just the safety bars that we'd came up with -- or  
22 that they came up with. I don't know.

23 Q. Is that the one to keep the gashead up?

24 A. Yes.

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1 A. Yes.

2 Q. Is that pretty common for everyone that worked on  
3 the Sutter line, the I-beam line?

4 A. Yes.

5 Q. You just worked on all of them?

6 A. Yes.

7 Q. I take it, since your testimony is that you do  
8 not recall exactly when this machine was manufactured, that  
9 you don't know, also, in what condition it was originally  
10 manufactured in; is that fair?

11 A. Yes.

12 Q. Did you indicate you had blown out stickers  
13 before on Sutters?

14 A. Yes.

15 Q. What about on this particular Sutter machine?

16 A. Yes.

17 Q. Did you ever have the occasion to blow out a  
18 sticker as a helper of the machine?

19 A. Yes.

20 Q. Have there been times when you haven't locked out  
21 the machine before going in and blowing out a sticker?

22 A. Yes.

23 MR. FLAUGHER: Sir, I believe that's

24 all I have.

1 Q. Was that put on in response to an accident where  
2 a bolt or something sheared off and the gashead dropped?

3 A. Yes.

4 Q. Sir, do you believe that Intermet employees have  
5 a general responsibility to act and perform their duties in  
6 a safe manner?

7 A. Yes.

8 Q. If we were to assume that Mr. Simpson climbed  
9 back into that machine after taking off the safety bars,  
10 after asking someone to lock the machine back in, and to  
11 reenergize it, do you believe he acted safely --

12 A. No.

13 Q. -- if we assume those to be the facts?

14 A. If that's the facts, no, he did not.

15 Q. Are you aware of the control panel ever being  
16 moved to different locations on the Sutters?

17 A. No.

18 Q. Is it your understanding they could not be or  
19 that you just don't recall them ever being in anyplace  
20 besides where they ultimately were?

21 A. They were never moved, that I'm aware of.

22 Q. How many Sutter machines were there, four?

23 A. Four.

24 Q. Did you work on all four of them?

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RE-EXAMINATION

1 BY MR. LAMBERT:

2 Q. I have just a few follow-up questions,  
3 Mr. Wilburn. You indicated that, at times, when you went  
4 in the machine to clean out a sticker, you had another  
5 employee watch the button or the release valve to make sure  
6 no one could push it?

7 A. Yes.

8 Q. Did you always have someone there, or were there  
9 times you would go in without having someone there watching  
10 the button?11 A. I'm sure there has been times that I've went in  
12 without somebody watching the button.13 Q. As I understand, when that button was pushed,  
14 even if all the other controls were off, sometimes, that  
15 machine would energize and, sometimes, it wouldn't?16 A. Correct. Well, no. Let me rephrase that. If  
17 the power was off and the valves were shut off, all the  
18 time, you could push that button and that valve would move.19 Q. The cope would move every time you pushed that  
20 button?21 A. Yes. You could kill the hydraulic pumps,  
22 everything on that, and what would happen is, when you  
23 would hit that valve, it would bypass and either come down

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1 A. Yes.

2 Q. Then you would tell him, hey, raise it back up a  
3 little more?

4 A. Yes.

5 Q. You never got in the machine unless the valve at  
6 least was shut off?

7 A. Correct.

8 Q. You testified that you'd seen the machine take  
9 off on its own.

10 A. Yes.

11 Q. Were the valves all shut off when it did that?

12 A. I think the valves were on, but the machine -- I  
13 think it was something -- I don't know. I can't remember.  
14 I don't think the valves were turned off. I'm pretty sure  
15 they were on when the machine would run.16 Q. You testified about having a person watch --  
17 that, generally, you would have someone watch the button to  
18 make sure no one pressed it.19 A. When I was working on that machine, there was  
20 always somebody at the valves 90 percent of the time.21 Q. Was that a common practice for most people to  
22 use?23 A. Yeah, because while one guy was in there  
24 cleaning, the other guy was at the valves.

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1 Q. It wasn't something that could accidentally be  
2 pushed? You had to pretty much purposely push that button  
3 in order to --

4 A. Correct.

5 Q. You talked about the safety bars. Were they  
6 always used?

7 A. No, not all the time.

8 Q. Okay. Just one more question. At the time when  
9 you almost got your hand smashed when your hammer saved  
10 you, did the hammer damage the machine at all?11 A. You could see where it indented the aluminium. I  
12 mean, those are aluminum castings in there, cope, drag,  
13 lead and aluminum. Yeah, you could see where it indented  
14 it a little bit.

15 Q. Did it need to be fixed, the machine?

16 A. Yeah. We had putty you wiped in them.

17 MS. PRYOR: I have no further  
18 questions.19 MS. BRIDE: I don't have any further  
20 questions.21 MR. FLAUGHER: I have no further  
22 questions.23 (The deposition of Gerald Wilburn  
24 concluded at the approximate hour of 12:15 p.m.)1 Q. Was he at the valves or was he --  
2 A. Right around that. I mean, you know, the valves  
3 are right beside the machine. I mean, you're only looking  
4 at three foot apart from the cope and drag versus the  
5 valves. But there's just a lot of steel in between, and  
6 hoses that was coming down and going up to the toplock and  
7 all that.8 Q. So the person would be -- if you were inside  
9 cleaning the machine, the other person would be standing by  
10 the valves where he couldn't see you?11 A. At first, a lot of times, they would help you  
12 clean. Then when it got down to where there was just a  
13 little bit, they'd go around and raise or lower, whatever  
14 needed to be done.

15 Q. Would he wait for you to tell him?

16 A. Yes.

17 Q. You didn't just send him around there and say,  
18 whenever you feel like it, press the button?

19 A. No.

20 Q. Could this button that we've been talking about  
21 that raises or lowers the valve be bumped into? I mean,  
22 you had to actually --23 A. About everybody had fire extinguisher pins.  
24 That's what we used.1  
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